IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO.1126 OF 2007
IN
SUIT NO.3099 OF 1999

Shantilal Sohanlal Jhuria. ..Plaintiff.
Vs.
State of Maharashtra and ors. ..Defendants.

Mr. S. Regio i/by B. Kanga and Girdharlal for the plaintiff.

Mr.H.C. Pimple for the Defendant Nos. 3 to 8.

Mr. Mahendra Rathod i/by Zohair & Co. for the Defendant Nos. 9 and 10.

CORAM : A.M. KHANWILKAR, J.
DATED : 1ST OCTOBER, 2007.

P.C.

1. By consent, Chamber Summons is made absolute in terms of prayer clause (a). Amendment to be carried out within a period of two weeks from today.

(A.M. KHANWILAKR, J.)

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1. In view of the amendment permitted in terms of separate order passed today in Chamber Summons No.1126 of 2007, additional issues will arise for consideration as under.

1) Whether the heirs and legal representatives of the deceased plaintiff No.2 are the necessary and proper parties to the present suit?

2) Whether the suit is bad on account of non joinder of necessary parties?

The above issues be inserted as issue Nos. 20 and 21 respectively.

2. In this proceeding Mr. A.G. Munshi was appointed as Court Commissioner for recording of evidence. It appears that he has expressed inability to accept the assignment. In the circumstances, by consent, Mr. Ahemd Sayeed Kureshi is appointed as Court Commissioner for recording evidence. The parties shall appear before the Court Commissioner on 29.10.2007 at 5.15p.m. on which date the Court Commissioner may proceed for recording of evidence or give suitable date as may be convenient to him. However, the Commissioner shall record the evidence of the witness in respect of which affidavit by way of examination-in-chief is already filed before 10.12.2007 and submit a report to this court on or before 13.12.2007. Place this matter on 14.12.2007 under the caption "For Commissioner's report".

3. In the event, the Court Commissioner fails to file report or any party is not co-operating, the Commissioner may submit interim report to this court which shall be placed for directions/orders on the following court working day by the registry.

4. Parties shall share Commissioner's fees and expenses equally to be settled directly with the Court

Commissioner.

(A.M. KHANWILAKR, J.)